

Senate Daily Reader

Tuesday, February 28, 2012

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State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

763T0375

SENATE APPROPRIATIONS

ENGROSSED NO. **HB 1058** - 2/27/2012

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: The Committee on State Affairs at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to make an appropriation to the Unified Judicial System
2 court automation fund and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the general fund the sum of one dollar (\$1),
5 or so much thereof as may be necessary, to the Unified Judicial System court automation fund
6 created in § 16-2-38 for costs related to the court automation system.

7 Section 2. The Chief Justice shall approve vouchers and the state auditor shall draw warrants
8 to pay expenditures authorized by this Act.

9 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall
10 revert in accordance with the procedures prescribed in chapter 4-8.

11 Section 4. Whereas, this Act is necessary for the support of the state government and its
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
13 full force and effect from and after its passage and approval.



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

391T0563

HOUSE JUDICIARY ENGROSSED NO. **HB 1126** 2/13/2012

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representative Hunt and Senator Krebs

1 FOR AN ACT ENTITLED, An Act to establish provisions that certain bonds paid by, or on
2 behalf of, certain persons with child support arrearages shall be paid to the Department of
3 Social Services to pay any child support the defendant owes.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 25-7 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Notwithstanding any provision of chapter 23A-43 to the contrary, any cash bond deposited
8 with the court, whether or not personally posted by the defendant, to assure appearance of an
9 individual charged with nonsupport of a child under § 25-7-15 or 25-7-16 or subject to civil
10 proceedings to enforce child support obligations, may, at the discretion of the court, be ordered
11 paid to the Department of Social Services or the support obligee and applied to child support
12 arrearages either as a condition imposed by the court or as a result of the individual's failure to
13 appear as required by the court.



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

922T0114

HOUSE ENGROSSED NO. **HB 1133** - 2/14/2012

Introduced by: Representatives Lust, Cronin, Fargen, Gosch, Hunhoff (Bernie), and Moser
and Senators Olson (Russell), Brown, and Frerichs

1 FOR AN ACT ENTITLED, An Act to establish the Legislature's Planning Committee.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. There is hereby created the Legislature's Planning Committee to make a
4 continuing study of emerging trends, assets, and challenges in South Dakota and to address the
5 long-term implications of the decisions made by the Legislature.

6 Section 2. The Legislature's Planning Committee shall be composed of the speaker of the
7 House of Representatives, the president pro tempore of the Senate, the chair of the Executive
8 Board of the Legislative Research Council, a member of the appropriations committee, and
9 seven other members of the Legislature to be appointed by the Executive Board of the
10 Legislative Research Council. The members of the Legislature's Planning Committee shall be
11 appointed biennially for terms expiring January first of each succeeding even-numbered year
12 and shall serve until their respective successors are appointed and qualified. However, no fewer
13 than two representatives, one from each party, and one senator shall be reappointed each
14 biennium to provide continuity. The total membership shall be appointed in proportion to the
15 political party makeup of the Legislature.



1 Section 3. Each year, the Executive Board shall identify up to six categories for the
2 Legislature's Planning Committee to study.

3 Section 4. The Legislature's Planning Committee shall select a chair and a vice chair and
4 shall be provided with staff assistance from the Legislative Research Council.

5 Section 5. The Legislature's Planning Committee shall collect and analyze data and give
6 special consideration to matters concerning demographics, education, labor, revenue, natural
7 resources, assets, challenges, trends, and the growth and efficiency of government in South
8 Dakota. The committee shall continuously identify long-term issues significant to South Dakota,
9 set goals, and issue a yearly report of its findings. The committee shall draw upon public input
10 from all those who may be concerned and knowledgeable in these areas. The committee may
11 propose draft legislation and policy recommendations to the Legislature to effectuate its
12 mission.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

993T0650

SENATE APPROPRIATIONS ENGROSSED NO. **HB 1136** - 2/27/2012

Introduced by: Representative Cronin and Senator Olson (Russell)

1 FOR AN ACT ENTITLED, An Act to revise the state aid to education formula and to make an
2 appropriation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the general fund the sum of two dollars (\$2),
5 or so much thereof as may be necessary, to the Department of Education for the purpose of
6 increasing foundation program state aid.



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

539T0649

SENATE APPROPRIATIONS

ENGROSSED NO. **HB 1137** - 2/27/2012

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representative Cronin and Senators Brown and Haverly

1 FOR AN ACT ENTITLED, An Act to make an appropriation to fund one-time payments to
2 state employees and to employees of providers, and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the general fund the sum of one dollar (\$1),
5 or so much thereof as may be necessary, to the Bureau of Finance and Management for the
6 purpose of providing a one-time payment to state employees.

7 Section 2. There is hereby appropriated from the general fund the sum of one dollar (\$1),
8 or so much thereof as may be necessary, to the Department of Social Services for the purpose
9 of providing a one-time payment to employees of providers.

10 Section 3. TheBureau of Finance and Management shall approve vouchers and the state
11 auditor shall draw warrants to pay expenditures authorized by this Act.

12 Section 4. Whereas, this Act is necessary for the support of the state government and its
13 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
14 full force and effect from and after its passage and approval.



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

643T0612

HOUSE JUDICIARY ENGROSSED NO. **HB 1185** - 2/10/2012

Introduced by: Representatives Hansen (Jon), Deelstra, Gosch, Haggar, Hickey, Hunt, Nelson (Stace), Olson (Betty), Rausch, Tornow, and Wick and Senator Brown

1 FOR AN ACT ENTITLED, An Act to prohibit all qualified health plans offered through a
2 health care exchange from including abortion coverage.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Pursuant to the Patient Protection and Affordable Care Act, Pub. L. No. 111-148,
5 no qualified health plan offered through a health insurance exchange established in the state may
6 include elective abortion coverage.

7 Section 2. For the purposes of this Act, an elective abortion is an abortion performed for any
8 reason other than a medical emergency as set forth in subdivision 34-23A-1(5).



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

736T0310

SENATE LOCAL GOVERNMENT ENGROSSED NO. **HB 1186** - 2/24/2012

Introduced by: Representatives Jensen, Conzet, Dennert, Greenfield, Hickey, Hoffman, Hubbel, Kirkeby, Kloucek, Kopp, Liss, Lucas, Miller, Olson (Betty), Sly, Solum, Stricherz, Tulson, Venner, and Verchio and Senators Begalka, Adelstein, Juhnke, Krebs, Lederman, Rampelberg, and Sutton

1 FOR AN ACT ENTITLED, An Act to prohibit registered sex offenders from circulating
2 petitions and to provide a penalty for the violation thereof.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 12-1 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No registered sex offender may circulate any petition, either on the registered sex offender's
7 own behalf or on the behalf of, or in the employ of, another person in any place frequented by
8 the public or door to door on private property. A violation of this section is a Class 1
9 misdemeanor.

10 Section 2. That chapter 12-1 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The provisions of section 1 of this Act do not apply, if the registered sex offender circulating
13 or assisting in circulating petitions under circumstances where the registered sex offender is in



1 the employ of, and under the immediate supervision of, another person and where the
2 circumstances preclude any contact with children.

3 Section 3. That chapter 12-1 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The provisions of section 1 of this Act do not apply, if the registered sex offender is
6 circulating any nominating petitions on his or her own behalf for election to any federal, state,
7 or local office for which the registered sex offender is otherwise qualified.

8 Section 4. That chapter 22-24B be amended by adding thereto a NEW SECTION to read as
9 follows:

10 No registered sex offender is eligible to circulate certain nominating petitions pursuant to
11 sections 1 to 3, inclusive, of this Act.

State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

813T0101

HOUSE ENGROSSED NO. **HB 1198** - 2/10/2012

Introduced by: Representatives Rozum, Abdallah, Bolin, Carson, Conzet, Cronin, Deelstra, Elliott, Hagggar, Hansen (Jon), Hoffman, Hubbel, Hunhoff (Bernie), Jensen, Jones, Kirkeby, Kopp, Magstadt, Moser, Munsterman, Novstrup (David), Olson (Betty), Perry, Rausch, Romkema, Schaefer, Sly, Solum, Street, Stricherz, Tornow, Turbiville, Van Gerpen, Vanneman, Venner, Wick, Willadsen, and Wismer and Senators Cutler, Adelstein, Bradford, Lederman, Nelson (Tom), Novstrup (Al), Rave, Rhoden, Schlekeway, Tieszen, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise the definition of firearm to include certain antique,
2 muzzle-loading, and black powder weapons in certain circumstances.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 22-14 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For purposes of §§ 22-14-15 and 22-14-15.1, the term, firearm, includes any antique firearm
7 as defined in subdivision 22-1-2(4) and any muzzle loading rifle, muzzle loading shotgun, or
8 muzzle loading pistol, including muzzle loading weapons that are designed to use black powder
9 or a black powder substitute and cannot use fixed ammunition.



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

267T0616

SENATE STATE AFFAIRS

ENGROSSED NO. **HB 1228** - 2/27/2012

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Moser, Cronin, Rausch, Street, and Willadsen and Senators Hansen (Tom) and Begalka

1 FOR AN ACT ENTITLED, An Act to provide tax rebates for certain energy projects.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any wind energy facility which installs wind turbines and operates the turbines to create
6 electrical energy is eligible for a rebate of the sales and use taxes and contractors' excise taxes
7 paid on the project. The wind energy facility is eligible for the rebate if the project has a
8 construction date on or after January 1, 2013, and the total project costs exceeds fifty million
9 dollars. For project costs incurred and paid after January 1, 2013, inclusive, the amount of the
10 rebate for the wind energy facility shall be determined by multiplying the nameplate capacity,
11 in megawatts, of the installed turbines by forty-five thousand dollars. The rebate is payable
12 when construction is complete and the sales and use taxes and contractors' excise taxes have
13 been paid in full.

14 Section 2. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as



1 follows:

2 Any new business facility that is an environmental upgrade to an existing electric generation
3 facility is eligible for a rebate of the sales and use taxes and contractors' excise taxes paid on the
4 project. The new business facility is eligible for the rebate if the project has a construction date
5 on or after January 1, 2013, and the total project costs exceeds fifty million dollars. For project
6 costs incurred and paid after January 1, 2013, inclusive, the amount of the rebate for an
7 environmental upgrade shall be fifty percent of the total sales and use taxes and contractors'
8 excise taxes paid. The rebate is payable when construction is complete and the sales and use
9 taxes and contractors' excise taxes have been paid in full.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

360T0663

SENATE APPROPRIATIONS ENGROSSED NO. **HB 1242** - 2/27/2012

Introduced by: Representatives Abdallah, Dennert, Feickert, Feinstein, Gibson, Gosch, Hubbel, Kirkeby, Kirschman, Lucas, Moser, Munsterman, Sigdestad, Street, Turbiville, and Wismer and Senators Krebs, Bradford, Cutler, Frysliie, Holien, Maher, Nelson (Tom), and Putnam

1 FOR AN ACT ENTITLED, An Act to revise the general appropriations act for fiscal year 2012.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That section 2 of chapter 23 of the 2011 Session Laws be amended to read as
4 follows:

5 BUREAU OF FINANCE AND MANAGEMENT

6 (8A) SD Ellsworth Development Authority

7	Personal Services	\$0	\$0	\$0	\$0
8	Operating Expenses	\$100	\$0	\$0	\$100
9	Total	\$100	\$0	\$0	\$100
10	F.T.E.				0.0

11 Adjust all totals accordingly.

12 Section 2. The commissioner of the Governor's Office of Economic Development shall
13 approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by



1 this Act.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

808T0601

HOUSE JUDICIARY ENGROSSED NO. **HB 1253** -
2/10/2012

Introduced by: Representative Hunt

1 FOR AN ACT ENTITLED, An Act to prohibit the judicial enforcement of any religious codes.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 19-8 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 No court, administrative agency, or other governmental agency may enforce any provisions
6 of any religious code.



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

367T0758

HOUSE JUDICIARY ENGROSSED NO. **HB 1266** - 2/13/2012

Introduced by: Representatives Tulson, Gosch, Hubbel, Jensen, Magstadt, Moser, Rausch,
Venner, and Wick and Senators Rhoden, Begalka, and Novstrup (Al)

1 FOR AN ACT ENTITLED, An Act to reduce the period of time necessary to cure and validate
2 certain adoption proceedings.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 25-6-21 be amended to read as follows:

5 25-6-21. Except in any case involving fraud or any case controlled by the Indian Child
6 Welfare Act, (25 U.S.C. §§ 1901 to 1963, inclusive), as amended to January 1, 2012, any
7 proceeding for the adoption of a child commenced under chapter 25-6 shall be in all things
8 legalized, cured, and validated ~~two years~~ one year after the proceeding is finalized. If any person
9 has a claim or right arising from any adoption proceeding, that person ~~must~~ shall initiate any
10 action to enforce such right or claim within ~~two years~~ one year of the date when the proceeding
11 is finalized unless a two year statute of limitations is imposed by the Indian Child Welfare Act,
12 (25 U.S.C. §§ 1901 to 1963, inclusive), as amended to January 1, 2012.



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

805T0545

HOUSE JUDICIARY ENGROSSED NO. **HB 1273** 2/13/2012

Introduced by: Representatives Haggar, Abdallah, Conzet, Gosch, Hansen (Jon), Magstadt, Turbiville, and Wick and Senators Holien, Brown, Novstrup (Al), and Rave

1 FOR AN ACT ENTITLED, An Act to prohibit the sale of loose leaf incense to minors, to
2 prohibit certain marketing techniques, to regulate the sale of certain types of incense, to
3 provide penalties therefor, and to declare an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. For purposes of this Act, a retailer is any person who sells merchandise at retail.

6 Section 2. No retailer may sell, in a single transaction, one quarter of a gram or more of
7 loose leaf incense. Any person who sells loose leaf incense in violation of this section is guilty
8 of a Class 1 misdemeanor.

9 Section 3. No retailer may willfully and knowingly supply, deliver, give possession, or sell
10 any amount of loose leaf incense to a person under twenty-one years of age. A violation of this
11 is a Class 1 misdemeanor.

12 Section 4. Any retailer who offers loose leaf incense for sale shall display and offer the
13 product for sale behind the counter or in a locked case so that a customer wanting access to the
14 product must ask a store employee for assistance. A violation of this section is a Class 1



1 misdemeanor.

2 Section 5. If offering for sale loose leaf incense, a retailer shall, before making such a sale,
3 require and make a record of the identification of the person purchasing the product. For
4 purposes of this Act, the term, identification, means a document issued by a governmental
5 agency which contains a description of the person or a photograph of the person, or both, and
6 gives the person's date of birth, such as a driver license, passport, or military identification card.
7 The retailer shall maintain the record of identification, including the purchaser's name and date
8 of birth. On August 1, 2012, and no later than the fifth day of every month thereafter, the retailer
9 shall send any such records to the Office of the Attorney General. No retailer may use or
10 maintain the record for any private or commercial purpose or disclose the record to any person,
11 except as authorized by law. The retailer shall disclose the record, upon request, to a law
12 enforcement agency for a law enforcement purpose.

13 Section 6. No manufacturer, distributor, or retailer may advertise to the public, directly or
14 indirectly, that loose leaf incense can be ingested. A violation of this section is a Class 1
15 misdemeanor.

16 Section 7. A retailer shall label each package of loose leaf incense sold in this state with a
17 warning label that reads as follows: "This product is not meant to be ingested. The side effects
18 of ingesting this product are unknown." A violation of this section is a Class 1 misdemeanor.

19 Section 8. For purposes of this Act, loose leaf incense includes loose potpourri, loose herbal
20 incense, herbal smoking blends, or similar dried, leafy substances sold or marketed, directly or
21 indirectly, as a relaxation, smoking, or herbal enhancement product. Herbal dietary supplements
22 or remedies and United States Food and Drug Administration approved herbal teas or products
23 are not included as loose leaf incense under this Act.

24 Section 9. A retailer shall ensure that each package of loose leaf incense sold is labeled with

1 each ingredient present in the product, including all chemicals and additives.

2 Section 10. Whereas, this Act is necessary for the immediate preservation of the public
3 peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full
4 force and effect from and after its passage and approval.